



# Judicial Activism: The Role of Courts in Shaping Public Policy

Salman Mark\*

Department of Criminology and Security Studies, Alex Ekwueme Federal University, Nigeria

## Introduction

Judicial activism is a term that often sparks heated debate among legal scholars, politicians, and citizens alike. It refers to the practice of courts, particularly higher courts, playing an active role in shaping public policy and making decisions that go beyond the mere interpretation of the law. In some instances, judicial activism involves courts stepping in to address issues where legislatures or executive branches may have failed or been reluctant to act. While judicial activism can lead to progressive changes, it also raises concerns about the balance of power between branches of government and the appropriate role of judges in a democratic society. This article explores the concept of judicial activism, its implications for the legal system, and the ongoing debate surrounding its impact on the rule of law [1].

## Description

Judicial activism is a broad and somewhat controversial term that describes when judges take a more expansive approach to interpreting the law, particularly constitutional law. In contrast to judicial restraint, which advocates for courts to avoid stepping into areas traditionally handled by the legislature or executive, judicial activism supports a more interventionist role for judges. Proponents of judicial activism argue that judges should not merely apply the law but actively interpret it in ways that address contemporary social, political, and moral issues. They believe courts can play a crucial role in promoting justice, protecting individual rights, and ensuring that the law adapts to changing societal values. Judicial activism is often associated with landmark decisions by courts that have led to significant changes in public policy or society. One of the most famous examples in U.S. legal history is *Brown v. Board of Education* (1954), in which the U.S. Supreme Court struck down racial segregation in public schools. This decision, widely regarded as an example of judicial activism, helped catalyze the Civil Rights Movement and shaped public policy for decades. In contrast, judicial restraint would suggest that such issues should be left to the democratic process, where elected representatives can decide. However, judicial activism is not without its critics. Detractors argue that judges, who are not elected and are not accountable to the public in the same way legislators are, should not make decisions that have far-reaching policy implications. They contend that courts should focus on interpreting the law as it is written, rather than making new law or shaping social policy, which they believe is the domain of elected representatives [2-4].

## Discussion

Judicial activism, in its various forms, plays a pivotal role in influencing societal and legal changes. One of the key areas where judicial activism is evident is in the protection of individual rights. Courts may intervene in cases where the legislature or executive branch has failed to act, particularly in instances where marginalized groups are denied basic civil rights. For example, decisions related to gender equality, abortion rights, and LGBTQ+ rights have often been the result of judicial activism. These rulings can lead to significant shifts in societal norms and legal frameworks that protect individual freedoms. However, critics argue that judicial activism can undermine the democratic process. They claim that when judges make decisions that appear to reflect their personal beliefs or political ideologies, rather

than strictly adhering to the law, they overstep their bounds. Critics of judicial activism often argue that it disregards the principle of separation of powers by allowing the judiciary to make decisions that should be within the purview of the legislature. For example, critics of *Roe v. Wade* (1973), the U.S. Supreme Court decision legalizing abortion, contend that the Court's ruling overrode democratic processes and legislative decisions, allowing justices to impose their personal views on the nation [5-7].

Moreover, judicial activism can lead to instability in the law. When courts make sweeping rulings that significantly alter established legal frameworks, it can create uncertainty about the law's direction. This may result in confusion among citizens, businesses, and government officials who rely on consistent legal standards. In addition, some argue that such activism can lead to a judicial overreach, where judges become the primary decision-makers on policy issues that should be decided by elected officials. Despite these criticisms, there is also a compelling argument in favor of judicial activism. Supporters argue that the judiciary can serve as a check on the power of the other branches of government, especially in cases where political pressures or corruption might prevent fair and just outcomes. Courts can step in when legislative bodies fail to act on critical issues, such as civil rights, environmental protection, or human dignity, particularly when legislative processes are slow, gridlocked, or disproportionately influenced by special interest groups. Judicial activism is also seen as a necessary mechanism in protecting the Constitution. In many cases, courts are the only body with the authority to interpret constitutional principles and ensure they are applied in a manner that reflects modern values and needs. The Constitution is a living document, and its interpretation must evolve with changing times. Courts may need to step in and provide guidance on how constitutional principles apply to contemporary issues that the framers could not have foreseen [8-10].

## Conclusion

Judicial activism is a complex and multifaceted concept that lies at the intersection of law, politics, and society. While it can lead to important legal and social reforms—particularly in protecting individual rights—it also raises concerns about the proper role of the judiciary in a democratic system. The debate over judicial activism reflects the ongoing tension between ensuring that the law is applied fairly and equally, while also acknowledging the evolving needs of society.

\*Corresponding author: Salman Mark, Department of Criminology and Security Studies, Alex Ekwueme Federal University, Nigeria, E-mail: marksalman6348@yahoo.com

Received: 01-Nov-2024, Manuscript No: jcls-25-160344, Editor Assigned: 04-Nov-2024, pre QC No: jcls-25-160344 (PQ), Reviewed: 18-Nov-2024, QC No: jcls-25-160344, Revised: 22-Nov-2024, Manuscript No: jcls-25-160344 (R), Published: 29-Nov-2024, DOI: 10.4172/2169-0170.1000467

Citation: Salman M (2024) Judicial Activism: The Role of Courts in Shaping Public Policy. J Civil Legal Sci 13: 467.

Copyright: © 2024 Salman M. This is an open-access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

Ultimately, whether judicial activism is seen as a positive or negative force depends on one's perspective on the role of courts in shaping public policy. While some may view it as an essential tool for advancing justice and safeguarding individual freedoms, others may see it as an overreach that threatens democratic processes and the rule of law. What is clear is that judicial activism will continue to be a central issue in legal discourse, as courts navigate the delicate balance between interpreting the law and influencing public policy.

#### References

1. McKeith IG, Ballard CG, Harrison RW (1995) Neuroleptic sensitivity to risperidone in Lewy body dementia. *Lancet* 346:699.
2. Crystal S, Sambamoorthi U, Walkup JT, Akincigil A (2003) Diagnosis and treatment of depression in the elderly medicare population: Predictors, disparities, and trends. *J Am Geriatr Soc* 51: 1718.
3. Ballard C, Grace J, Holmes C (1998) Neuroleptic sensitivity in dementia with Lewy bodies and Alzheimer's disease. *Lancet* 351:1032-10533.
4. Bannon S, Gonsalvez CJ, Croft RJ, Boyce PM (2002) Response inhibition deficits in obsessive-compulsive disorder. *Psychiatry Res* 110: 165-174.
5. Owens DG (1994) Extrapyramidal side effects and tolerability of risperidone: a review. *The Journal of clinical psychiatry. J Clin Psychiatry* 55: 29-35.
6. Lotrich F, Pollock B (2005) Aging and clinical pharmacology: implications for antidepressants. *J Clin Pharmacol* 45: 1106-1122.
7. Carriere P, Bonhomme D, Lemperiere T (2000) Amisulpride has a superior benefit/risk profile to haloperidol in schizophrenia: results of a multicentre, double-blind study (the Amisulpride Study Group. *Eur Psychiatry* 15:321-329.
8. Hamilton M (1960) A rating scale for depression. *J Neurol Neurosurg Psychiatr* 23: 56-62.
9. Lim HK, Pae CU, Lee C, Lee CU (2006) Amisulpride versus risperidone treatment for behavioral and psychological symptoms in patients with dementia of the Alzheimer type: a randomized, open, prospective study. *Neuropsychobiology* 54:247-251.
10. Rasmussen K, Sampson S, Rummans T (2002) Electroconvulsive therapy and newer modalities for the treatment of medication-refractory mental illness. *Mayo Clin Proc* 77: 552-556.